



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
Washington, D.C. 20460

OFFICE OF  
GENERAL COUNSEL

October 22, 2019

The Honorable R.D. James  
Assistant Secretary of the Army (Civil Works)  
U.S. Department of the Army  
108 Army Pentagon  
Washington, DC 20310-0108

Dear Mr. James:

I am writing regarding EPA's October 24, 2019 deadline to provide notice under Part IV, paragraph 3(b) of the 1992 Memorandum of Agreement to implement CWA Section 404(q) (hereinafter referred to as the "404(q) MOA") discussed in your letter dated July 26, 2019.

Since my prior request for an extension, staff from EPA and Army Corps have discussed the status of the Alaska District's process to consider and evaluate EPA's July 1, 2019 comment letters. EPA and Army Corps officials from the Alaska District in Seattle, Washington met on September 24, 2019 to discuss the status of the Alaska District's process regarding the Pebble Mine project.

I understand that the Alaska District is currently evaluating the NEPA comments it received from the cooperating agencies, including EPA's comments, and expects to provide the agencies a response to their comments and a preliminary Final Environmental Impact Statement in the coming months. I understand that the Alaska District will also prepare its CWA Section 404(b)(1) Guidelines analysis, principally focusing on the NEPA related comments.

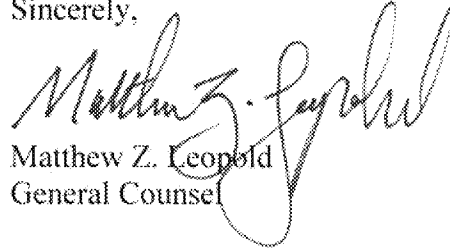
Given this projected timeline, I am requesting an extension of the October 24, 2019 deadline for EPA to provide notice under paragraph 3(b) of the 404(q) MOA to allow enough time for the Alaska District to conduct its work and confer with EPA on its CWA Section 404 comments. Specifically, I am requesting an extension of the deadline for a letter under paragraph 3(b) of the 404(q) MOA to 30 business days after the Army Corps provides the EPA with the preliminary drafts of decision documents, including the preliminary draft permit and preliminary draft Record of Decision.

In addition, in order to facilitate resolution of issues raised in the EPA's July 1, 2019 CWA Section 404 comment letter, I am also requesting that the Alaska District staff meet with the EPA staff during this extension time-period to discuss the issues raised in the comment letter. EPA is requesting these meetings to provide an opportunity for more detailed discussions regarding how the issues raised by EPA will be addressed in the context of compliance with the

CWA Section 404(b)(1) Guidelines. EPA also recognizes that new information regarding some of these topics has been added to the project's Environmental Impact Statement website since the EPA submitted its Section 404 comment letter. These meetings would also provide an opportunity for the EPA and the Army Corps to discuss plans to incorporate this new information into the Army Corps' CWA Section 404 decision-making and NEPA decision-making.

We appreciate your continued efforts to work with EPA on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Z. Leopold". The signature is fluid and cursive, with a large, sweeping "L" at the end.

Matthew Z. Leopold  
General Counsel